

### REMARKS

Following amendment, claims 43-47, 50, 54-59, 62-89, 96, 97, 105, 107, 109, 111, 115, 119, 122-124, 126-128, 130-132, 134-136, 138-140, and 159-162 will be pending in this application. Claims 43-47, 50, 54, 57, 58, 62-69, 74, 89, 96, 97, 122, 126, 130, 134, and 138 are currently amended; new claims 159-162 are added; and claims 53, 98, 99, 102-104, 106, 108, 110, 112-114, 118, 120, 121, 125, 129, 133, 137, 141, and 142-158 are canceled herein. Claims 79-88 were withdrawn by the Examiner in a previous action. Support for the amendments and new claims can be found throughout the specification and claims as originally filed. No new matter has been added.

Applicants acknowledge and thank the Examiner for indicating that claims 53-55, 98, 99, 102-104, 106, 108, 110, 112-114, 118, 120-123, 125-127, 129-131, 133-135, and 137-139 were allowable. The subject matter of each of claims 53, 98, 99, 102-104, 106, 108, 110, 112-114, 118, 120, 121, 125, 129, 133, and 137 was incorporated into the independent claim from which it depends. Accordingly, those independent claims should now be allowable.

Applicants provide herewith a newly signed Rule 1.132 Declaration of Dr. Otterbein.

### 35 USC § 112, first paragraph

Claims 43-47, 50, 56-59, 62-78, 89, 96, 97, 105, 107, 109, 111, 115, 119, 124, 128, 132, 136, and 140-158 were rejected under 35 U.S.C. 112, first paragraph, as allegedly not enabled. According to the Office, the specification is enabling for inhalation of gaseous carbon monoxide (CO) in the claimed methods but allegedly does not provide enablement for methods of administration other than inhalation. Applicants respectfully disagree. However, in the interest of moving the present application toward allowance, applicants have amended claims 43-47, 50, 57, 58, 62-69, 74, 89, 96, and 97 to recite that the pharmaceutical composition is a gaseous composition and is administered to the patient via inhalation. Accordingly, applicants request that the present rejection be reconsidered and withdrawn.

Applicant : Choi et al.  
Serial No. : 10/053,535  
Filed : January 15, 2002  
Page : 15 of 15

Attorney's Docket No.: 13681-0003002 / OCR 986 US03;  
BIDMC Ref.: 718-CL-Otterbe

### CONCLUSION

Applicants submit that all claims are in condition for allowance, which action is requested. This reply is being submitted along with a Petition for Extension of Time and the required fee. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 13681-0003002.

Respectfully submitted,

Date: November 13, 2008

/RSMcQuade/

Ryan S. McQuade, Ph.D.  
Reg. No. 61,358

Fish & Richardson P.C.  
Customer No. 26161  
Telephone: (617) 542-5070  
Facsimile: (877) 769-7945